

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHN FRANCIS ARPINO,

Case No. 3:14-cv-00034-MMD-VPC

Plaintiff,

ORDER

v.

ISIDRO BACA, et al.,

Defendants.

In the order of April 3, 2015 (dkt. no. 25), the Court informed petitioner that he had failed to exhaust all but one ground of his petition for a writ of habeas corpus. The Court gave petitioner the option of dismissing the unexhausted grounds and proceeding with the remaining ground, dismissing the entire action to return to state court, or moving to stay the action while petitioner returned to state court.

Instead of choosing one of these options, petitioner has filed a motion for relief from order (dkt. no. 26). He repeats the same arguments about the flaws in Nevada's judicial system. Under Nevada law, an individual may file a post-conviction habeas corpus petition to challenge the validity of a judgment of conviction. However, instead of filing a post-conviction habeas corpus petition, petitioner has filed multiple frivolous motions in the state courts.

The Court will give petitioner another opportunity to declare what he wishes to do with the unexhausted grounds. The three options that the Court presented in its order of April 3, 2015, are the only options that the Court will consider. If petitioner does not file

1 the required declaration or motion within the allotted time, the Court will dismiss this
2 action, regardless of any motion for reconsideration or similar motion that petitioner
3 files.

4 Petitioner has filed an *ex parte* motion for appointment of counsel (dkt. no. 27).
5 The Court finds that appointment of counsel is not warranted, and the Court denies the
6 motion.

7 Petitioner has filed two motions for a status check (dkt. nos. 31, 32). This order
8 makes the motions moot.


9 It is therefore ordered that petitioner's motion for relief from order (dkt. no. 26) is
10 denied.

11 It is further ordered that petitioner's *ex parte* motion for appointment of counsel
12 (dkt. no. 27) is denied.

13 It is further ordered that petitioner's motions for a status check (dkt. nos. 31, 32)
14 are denied.

15 It is further ordered that petitioner shall have fourteen (14) days from the date of
16 entry of this order to do one of the following: (1) inform this Court in a sworn declaration
17 that he wishes to dismiss grounds 2 through 14 of his petition (dkt. no. 12), and proceed
18 only on the remaining grounds for relief, (2) inform this Court in a sworn declaration that
19 he wishes to dismiss his petition (dkt. no. 12) to return to state court to exhaust his state
20 remedies with respect to the claims set out in grounds 2 through 14 of his petition (dkt.
21 no. 12), or (3) move to stay this action while he returns to state court to exhaust his
22 state remedies with respect to the claims set out in grounds 2 through 14 of his petition
23 (dkt. no. 12). Failure to comply will result in the dismissal of this action.

24 DATED THIS 29th day of March 2016.

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26 
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE